

Remarks

The Office Action dated August 25, 2003, and made final, and Advisory Action dated December 9, 2002 have been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-3 and 5-14 are pending in this application. Claims 1-3 and 5-6 stand rejected.

Claims 7-10 are allowed. Claims 11-14 are withdrawn from consideration.

In accordance with 37 C.F.R. 1.136(a), a two month extension of time is submitted herewith to extend the due date of the response to the Office Action dated August 25, 2003, for the above-identified patent application from November 25, 2003, through and including January 26, 2004. In accordance with 37 C.F.R. 1.17(a), authorization to charge a deposit account in the amount of \$420.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-3 and 5-6 under 35 U.S.C. § 102(b) as being anticipated by Alvord (US 5,803,985) is respectfully traversed.

Applicants respectfully submit that the Section 102 rejection of the presently pending claims is not a proper rejection. The Federal Circuit has opined that to anticipate a claim, a single source must contain all of the elements of the claim. See *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 137, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). Also, missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. See *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

Claim 1 of the present application recites "dishwasher comprising: a tub; . . . a sensor in flow communication with said tub; . . . and a control mechanism coupled to said sensor and to

said fluid circulation assembly, said control mechanism comprising a processor programmed to determine whether a sufficient amount of water flows into said tub during a fill operation based on a signal output by said sensor and to terminate a wash cycle when said control mechanism determines that a sufficient amount of water has not flowed into said tub during said fill operation based on said signal output by said sensor".

Alvord does not describe nor suggest a dishwasher as recited in Claim 1. Particularly, Alvord does not describe nor suggest a control mechanism comprising a processor programmed to determine whether a sufficient amount of water flows into the tub during a fill operation based on a signal output by the sensor and to terminate a wash cycle when the control mechanism determines that a sufficient amount of water has not flowed into the tub during the fill operation based on the signal output by the sensor.

Rather, Alvord describes a control system for a dishwasher that utilizes a turbidity sensor to achieve an optimum fill cycle water level in a chamber into which soiled dishes are loaded. An electronically actuatable fill valve is controlled by a microprocessor in response to signals received from the sensor indicative of the turbidity of water in the chamber during the fill cycle. Once turbidity of the water in the chamber stabilizes or drops to a predefined level, the fill water is determined to have reached an optimum level and the flow of supply water is shut off. Alvord does not describe nor suggest a control mechanism programmed to terminate a wash cycle when the control mechanism determines a sufficient amount of water has not flowed into the chamber during the fill operation based on a signal from the sensor. The Office Action dated 8/25/03, at page 5, admits that Alvord fails to disclose terminating a current wash cycle when an insufficient amount of water has flowed into the tub during the fill operation. Further, Alvord describes at

Col. 4, lines 8-11 that "In the case where turbidity never reaches a predetermined minimum amount or doesn't reach a defined level of stability, the controller preferably fills the wash chamber to a predetermined maximum level". Alvord never describes nor suggests that the controller terminates the wash cycle when the sensors indicate that a sufficient amount of water has not flowed into the wash chamber. Therefore, Alvord does not describe nor suggest a control mechanism as recited in Claim 1. Accordingly, Applicants submit that Claim 1 is patentable over Alvord.

Claims 2-3 and 5-6 depend from independent Claim 1. When the recitations of dependent Claims 2-3 and 5-6 are considered in combination with the recitations of Claim 1, Applicants respectfully submit that Claims 2-3 and 5-6 likewise are patentable over Alvord.

For the reasons set forth above, Applicants respectfully request that the Section 102(b) rejection of Claims 1-3 and 5-6 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,



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